

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Randy Blackburn Custom Plumbing)
Dist. 8, Map 75M, Group F, Control Map 75M,) Maury County
Parcel 6.00P, S.I. 001)
Commercial Property)
Tax Years 2002, 2003, 2004 & 2005)

INITIAL DECISION AND ORDER DISMISSING APPEAL

Statement of the Case

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on June 21, 2006 in Columbia, Tennessee. In attendance at the hearing were Mr. and Mrs. Blackburn and Maury County Property Assessor, Jimmy R. Dooley.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter concerns the taxpayer's desire to appeal forced assessments made by the assessor of property in accordance with Tenn. Code Ann. § 67-5-903(c). The sole issue before the administrative judge concerns jurisdiction. This issue arises from the fact the taxpayer's appeal was not filed until March 13, 2006.¹

The administrative judge finds that the jurisdiction of the State Board of Equalization is governed in relevant part by Tenn. Code Ann. § 67-5-1412(e) which provides as follows:

(e) Appeals to the state board of equalization from action of a local board of equalization must be filed before August 1 of the tax year, or within forty-five (45) days of the date notice of the local board action was sent, whichever is later. If notice of an assessment or classification change pursuant to § 67-5-508 was sent to the taxpayer's last known address later than ten (10) days before the adjournment of the local board of equalization, the taxpayer may appeal directly to the state board at any time within forty-five (45) days after the notice was sent. If notice was not sent, the taxpayer may appeal directly to the state board at any time within forty-five (45) days after the tax billing date for the assessment. The taxpayer has the right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, *the board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.*

[Emphasis Supplied]

¹ The taxpayer contacted the State Board of Equalization by telephone on March 6, 2006 to request appeal forms. The completed appeal forms were postmarked March 13, 2006 and received by the State Board of Equalization on March 14, 2006. The administrative judge finds that the postmark date technically constitutes the filing date. See Tenn. Code Ann. § 67-1-107.

Based upon the above-quoted statute, the administrative judge finds that the deadline for filing appeals contesting the forced assessments was March 1 of the year following the tax year. For example, March 1, 2003 was the deadline to appeal the forced assessment for tax year 2002. Similarly, March 1, 2006 was the deadline to appeal the forced assessment for tax year 2005.

The administrative judge finds that the taxpayer did not appeal the forced assessments for any of the years in question until March 13, 2006. Regrettably, the administrative judge finds that the appeals are all untimely and must be dismissed for lack of jurisdiction.

The administrative judge finds that the State Board of Equalization lacks equitable powers and cannot simply waive statutory deadlines. See *Trustees of Church of Christ* (Obion Co., Exemption) wherein the Assessment Appeals Commission ruled in pertinent part as follows:

There is no doubt that during the tax years at issue here, 1988 and 1989, the applicant was an exempt religious institution using its property for the religious purposes for which it exists, as required by our statute to qualify for property tax exemption. The applicant had not, however, made its application as the statute requires for tax years 1988 and 1989. The church urges the Commission to exercise equitable powers and take into consideration the unfortunate circumstances that led it to delay its application. We have no power to waive the requirements of the exemption statute, however.

Final Decision and Order at 2.

ORDER

It is therefore ORDERED that this appeal be dismissed for lack of jurisdiction.

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

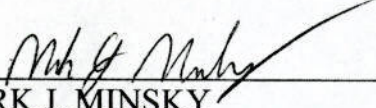
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of

the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 23rd day of June, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Randy & Brenda Blackburn
Jimmy R. Dooley, Assessor of Property